

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

M.A., an individual)	
)	
Plaintiff,)	Case No: 2:19-cv-00849
)	
v.)	JUDGE ALGENON MARBLEY
)	
Wyndam Hotels and Resorts, Inc., et al.)	MAGISTRATE ELIZABETH
)	PRESTON DEAVERS
Defendants.)	

**DEFENDANT TJM COLUMBUS, LLC D/B/A CROWNE PLAZA COLUMBUS NORTH-
WORTHINGTON’S MOTION FOR JUDGMENT ON THE PLEADINGS**

Pursuant to Fed.R.Civ.P. 12(c), Defendant TJM Columbus, LLC d/b/a Crowne Plaza Columbus North-Worthington (“TJM”) moves the Court for judgment on the pleadings in its favor on all claims asserted against TJM in Plaintiff’s Complaint. At the time of the events alleged in the Complaint, from the spring of 2014 to August 2015 (*see* Complaint ¶¶49, 51, and 57), TJM did not own or operate the Crown Plaza Columbus North - Worthington hotel (the “Hotel”) at which the Complaint alleges certain sex trafficking activities occurred which form the bases for the claims that Plaintiff asserts against TJM. Indeed, the Complaint does not expressly assert that TJM owned or operated the Worthington Crown Plaza Hotel during the relevant time frame -- and for good reason. TJM was not incorporated until April 22, 2016 (*see Exhibit A*); it acquired the Hotel on November 23, 2016. Thus, the Complaint fails to state a claim against TJM upon which relief can be granted.

A memorandum in support is set forth below.

Respectfully Submitted,

/s/ John F. Stock

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TJM Columbus, LLC d/b/a Crowne Plaza Columbus
North-Worthington, an IHG Hotel

MEMORANDUM IN SUPPORT

I. INTRODUCTION

In her Complaint, Plaintiff alleges that she was a victim of certain sex trafficking events at the Hotel from the spring of 2014 to August 2015. See Complaint ¶¶ 49, 51, and 57. The Complaint further alleges that the owner, supervisor, or operator of the Hotel supported, facilitated, harbored, or otherwise furthered the victimization of Plaintiff during this time period by repeatedly failing to address known risks of human trafficking on the Hotel premises. *Id.* ¶¶ 73-86, 107. But the Complaint is fatally defective as against TJM because it fails to allege that TJM owned or operated the Hotel at the time the events detailed in the Complaint are alleged to have occurred at the Hotel. In fact, TJM did not own or operate the Hotel at that time. As noted, TJM did not even exist until 2016. Plaintiff's Complaint must be dismissed as to TJM.

II. LAW AND ARGUMENT

A. The Legal Standard for Granting Judgment on the Pleadings

"After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings." Fed.R.Civ.P. 12(c). See also *Hoven v. Walgreen Co.*, 751 F.3d

778, 782-83 (6th Cir. 2014). “[The court] must ‘construe the complaint in the light most favorable to the plaintiff, accept all of the complaint’s factual allegations as true, and determine whether the plaintiff undoubtedly can prove no set of facts in support of the claims that would entitle relief.’” *Equal Employment Opportunity Comm’n v J.H. Routh Packing Co.*, 246 F.3d 850, 851 (6th Cir. 2001) (citations omitted). However, the Court need not accept as true unwarranted factual inferences or legal conclusions. *Grindstaff v. Green*, 133 F.3d 416, 421 (6th Cir. 1998) (emphasis added).

In order to survive a motion for judgment on the pleadings, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is *plausible on its face*.’” *Filer v. Polston*, 886 F.Supp.2d 790, 794 (S.D.Ohio 2012) (emphasis added). A claim is plausible on its face when the facts pleaded allow the court “to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* Plausibility requires more than a sheer possibility that a defendant has acted unlawfully. *Id.* When the alleged facts do not permit the court to infer more than a mere possibility of misconduct, then the complaint has not shown that the pleader is entitled to relief. *Id.* In these circumstances, a motion for judgment on the pleadings should be granted. *See id.* at 797.

B. The Court May Take Judicial Notice of the Publicly-Filed Corporate Records Establishing That TJM Was Organized On April 22, 2016 – After the Events Alleged in the Complaint

The Court may take notice of the Florida Secretary of State’s record establishing that the articles of organization creating TJM were filed on April 22, 2016. See Exhibit A attached hereto.¹ Courts are permitted to take judicial notice of facts that are “not subject to reasonable

¹ TJM was first incorporated under the name “TJM Roanoke, LLC.” On September 6, 2016, TJM Roanoke, LLC changed its name to “TJM Columbus, LLC.” See Exhibit B (Florida Sec’y

dispute.” Fed.R.Evid. 201(b). When deciding a motion for judgment on the pleadings, federal courts may consider materials that are public records or materials that are otherwise appropriate for taking judicial notice. *Filer v. Polston*, 886 F.Supp.2d 790, 794 (S.D.Ohio 2012); *Barany–Snyder v. Weiner*, 539 F.3d 327, 332 (6th Cir.2008) (public records may be taken into account when considering Rule 12(c) motion for judgment on the pleadings). When judicial notice is taken, the court does not need to convert the Rule 12(c) motion into a Rule 56 motion. *Whittiker v. Deutsche Bank Nat. Tr. Co.*, 605 F.Supp.2d 914, 925 (N.D.Ohio 2009).

And specifically, it is appropriate for courts to take judicial notice of articles of incorporation published on a secretary of state’s website. *See Overall v. Ascension*, 23 F.Supp.3d 816, 824–25 (E.D.Mich.2014) (“[T]he Court may take judicial notice of the Articles of Incorporation . . . which are public documents filed with the Missouri and/or Michigan Secretary of State and are available on the states’ websites.”); *Chappell & Co. v. 111 N. Main St., Inc.*, N.D.Ohio No. 5:08 CV 3000, 2009 WL 1459035, *1 (“Court takes judicial notice of the corporation’s Articles of Incorporation and Subsequent Appointment of Agent, which are public documents found on the Ohio Secretary of State website.”).

Exhibit A, TJM’s articles of incorporation on the Florida Secretary of State’s website, establishes that TJM was incorporated on April 22, 2016. TJM did not exist at the time of the events alleged in the Complaint -- spring of 2014 to August 15, 2015. *See* Complaint ¶¶ 49, 51, 57, 73-86, and 107. TJM did not -- and could not -- own, operate, or supervise the Hotel at the time of the events that form the bases for Plaintiff’s claims against TJM. Furthermore, the Complaint does not expressly allege that TJM owned, operated, or supervised the Hotel during

of State Articles of Amendment) and Exhibit C (Florida Sec’y of State “Detail by Entity Name” showing the history of corporate filings for TJM).

the relevant time frame. The Complaint fails to state a claim against TJM that is plausible on its face, as a matter of law. TJM is entitled to judgment on the pleadings.

III. CONCLUSION

For the foregoing reasons, the Court should grant judgment on the pleadings in TJM's favor on all claims asserted against TJM in Plaintiff's Complaint.

Respectfully submitted,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

/s/ John F. Stock

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tkern@beneschlaw.com

*Attorneys for Defendant
TJM Columbus, LLC d/b/a Crowne Plaza Columbus
North-Worthington, an IHG Hotel*

CERTIFICATE OF SERVICE

I hereby certify that on June 28, 2019, a copy of the foregoing Answer was filed electronically. Notice of this filing will be sent by operation of the Court's case management and electronic filing system. Parties may access this filing through the Court's case management and electronic filing system.

/s/ John F. Stock

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L16000079280
FILED 8:00 AM
April 22, 2016
Sec. Of State
cgolden

Article I

The name of the Limited Liability Company is:

TJM ROANOKE, LLC

Article II

The street address of the principal office of the Limited Liability Company is:

5801 ULMERTON ROAD
SUITE 200
CLEARWATER, FL. 33760

The mailing address of the Limited Liability Company is:

5801 ULMERTON ROAD
SUITE 200
CLEARWATER, FL. 33760

Article III

The name and Florida street address of the registered agent is:

TERENCE J MCCARTHY
5801 ULMERTON ROAD
SUITE 200
CLEARWATER, FL. 33760

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: TERENCE J. MCCARTHY

EXHIBIT A

Article IV

L16000079280
FILED 8:00 AM
April 22, 2016
Sec. Of State
cgolden

The name and address of person(s) authorized to manage LLC:

Title: MGR
TERENCE J MCCARTHY
5801 ULMERTON ROAD, SUITE 200
CLEARWATER, FL. 33760

Signature of member or an authorized representative

Electronic Signature: TERENCE J. MCCARTHY

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

LIL 0000 792FO

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP ☐ WAIT ☐ MAIL

(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

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SEP 08 2016

Y SULKER

EXHIBIT B

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: TJM Roanoke, LLC

Name of Limited Liability Company

The enclosed Articles of Amendment and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

Harvey A. Ford

Name of Person

Ford & Ford, P.A.

Firm/Company

147 Second Avenue South, Suite 302

Address

St. Petersburg, FL 33701

City/State and Zip Code

dschooley@tjmproperties.us

E-mail address: (to be used for future annual report notification)

For further information concerning this matter, please call:

Harvey A. Ford

727 894-2907
at ()

Name of Person

Area Code

Daytime Telephone Number

Enclosed is a check for the following amount:

☒ \$25.00 Filing Fee

☐ \$30.00 Filing Fee &
Certificate of Status

☐ \$55.00 Filing Fee &
Certified Copy
(additional copy is enclosed)

☐ \$60.00 Filing Fee,
Certificate of Status &
Certified Copy
(additional copy is enclosed)

MAILING ADDRESS:

Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

STREET/COURIER ADDRESS:

Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF**

TJM Roanoke, LLC

(Name of the Limited Liability Company as it now appears on our records.)
(A Florida Limited Liability Company)

The Articles of Organization for this Limited Liability Company were filed on April 22, 2016 and assigned
Florida document number L16000079280.

This amendment is submitted to amend the following:

A. If amending name, enter the new name of the limited liability company here:

TJM Columbus, LLC

The new name must be distinguishable and contain the words "Limited Liability Company," the designation "LLC" or the abbreviation "L.L.C."

Enter new principal offices address, if applicable:

N/A

(Principal office address MUST BE A STREET ADDRESS)

Enter new mailing address, if applicable:

N/A

(Mailing address MAY BE A POST OFFICE BOX)

B. If amending the registered agent and/or registered office address on our records, enter the name of the new registered agent and/or the new registered office address here:

Name of New Registered Agent:

N/A

New Registered Office Address:

Enter Florida street address

City

Florida

Zip Code

New Registered Agent's Signature, if changing Registered Agent:

I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent as provided for in Chapter 605, F.S. Or, if this document is being filed to merely reflect a change in the registered office address, I hereby confirm that the limited liability company has been notified in writing of this change.

If Changing Registered Agent, Signature of New Registered Agent



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

Detail by Entity Name

Florida Limited Liability Company
TJM COLUMBUS, LLC

Filing Information

Document Number	L16000079280
FEI/EIN Number	81-2536733
Date Filed	04/22/2016
State	FL
Status	ACTIVE
Last Event	LC NAME CHANGE
Event Date Filed	09/06/2016
Event Effective Date	NONE

Principal Address

5801 ULMERTON ROAD
SUITE 200
CLEARWATER, FL 33760

Mailing Address

5801 ULMERTON ROAD
SUITE 200
CLEARWATER, FL 33760

Registered Agent Name & Address

MCCARTHY, TERENCE J
5801 ULMERTON ROAD
SUITE 200
CLEARWATER, FL 33760

Authorized Person(s) Detail

Name & Address

Title MGR

MCCARTHY, TERENCE J
5801 ULMERTON ROAD, SUITE 200
CLEARWATER, FL 33760

Annual Reports

Report Year	Filed Date
2017	04/26/2017
2018	04/17/2018
2019	02/04/2019

Document Images

02/04/2019 -- ANNUAL REPORT	View image in PDF format
04/17/2018 -- ANNUAL REPORT	View image in PDF format
04/26/2017 -- ANNUAL REPORT	View image in PDF format
09/06/2016 -- LC Name Change	View image in PDF format
04/22/2016 -- Florida Limited Liability	View image in PDF format

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Plaintiff,)	Case No: 2:19-cv-00849
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Wyndam Hotels and Resorts, Inc., et al.)	MAGISTRATE ELIZABETH
)	PRESTON DEAVERS
Defendants.)	

This matter is before the Court on Defendant TJM Columbus, LLC d/b/a Crowne Plaza Columbus North-Worthington (“TJM”)’s Motion Under Fed.R.Civ.P. 12(c) For Judgment on the Pleadings and its accompanying Memorandum. Having reviewed the Motion and Memorandum, it is hereby ORDERED that TJM’s Motion is granted.

DATE: _____

UNITED STATES DISTRICT JUDGE